

1 CARRILLO LAW FIRM, LLP
2 Luis A. Carrillo (Bar No. 70398)
3 Michael S. Carrillo (Bar No. 258878)
4 1499 Huntington Drive, Suite 402
5 South Pasadena, CA 91030
6 Tel: (626) 799-9375
7 Fax: (626) 799-9380

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
6 LAW OFFICES OF DALE K. GALIPO
7 Dale K. Galipo (Bar No. 144074)
dalekgalipo@yahoo.com
8 21800 Burbank Boulevard, Suite 310
9 Woodland Hills, California 91367
10 Telephone: (818) 347-3333
Facsimile: (818) 347-4118

11 *Attorneys for Plaintiffs*

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

17 MARGARITO T. LOPEZ individually
18 and as successor in interest to Margarito
19 E. Lopez, Deceased; SONIA TORRES,
KENI LOPEZ, and ROSY LOPEZ,
individually,

20 Plaintiffs,

21 vs.

22
23 CITY OF LOS ANGELES; JOSE
24 ZAVALA; JULIO QUINTANILLA; and
25 DOES 1-10, inclusive,

26 Defendants.

Case No.: 2:22-cv-07534-FLA-MAAx

Hon. Judge Fernando L. Aenlle-Rocha
Hon. Mag. Maria A. Audero

PLAINTIFFS OPPOSITION TO
DEFENDANTS' MOTION IN
LIMINE NO. 3 TO EXCLUDE
ARGUMENT RELATED TO
SOURCE OF PAYMENT

FPTC: May 31, 2024
Trial: July 16, 2024

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

3 By way of their third motion *in limine*, Defendants seek to preclude argument
4 regarding the source of payment for compensatory damages. Plaintiffs do not intend
5 to make argument regarding what the *source* of the payment of any judgement is
6 (i.e. the City of Los Angeles' insurance policy), however Plaintiffs should be able to
7 argue that the City of Los Angeles, as the individual defendants' employer, is
8 vicariously liable for their actions and therefore is responsible for any damages on
9 Plaintiffs' state law claims. Plaintiffs submit that this motion should be denied on
10 the grounds that the City of Los Angeles remains a named defendant and it is only
11 accurate to state that the City is vicariously liable for the actions of its employees
12 under state law. *See* Cal. Gov. Code, Section 815.2(a). Plaintiffs request a jury
13 instruction to this effect. *See*, CACI 3703. Defendants' argument to exclude such
14 information improperly and incorrectly suggests that the individual officers would
15 be personally responsible for any judgment against them. This argument would be
16 misleading to the jury and unfairly prejudicial to Plaintiffs under FRE 403 and
17 incorrectly states the law.

18 If the Court grants Defendants' motion, then Plaintiffs respectfully request that
19 should Defendants allude to individual liability, Plaintiffs should be permitted to
20 rebut any misleading suggestions in light of the City's vicarious liability and
21 consequential responsibility for any damages resulting from Plaintiffs' state law
22 claims.

II. ARGUMENT

24 It is stipulated that Officers Zavala and Quintanilla acted within the course and
25 scope of their employment and authority with the City of Los Angeles during the
26 incident giving rise to this law suit. Therefore, if the jury finds that Officers Zavala
27 and Quintanilla violated Plaintiffs rights under their state law claims for battery,

1 negligence, negligent infliction of emotional distress, or the Bane Act, the City of
 2 Los Angeles is vicariously liable for those violations. California Government Code,
 3 Section 815(a) specifically provides:

4 A public entity is liable for injury proximately caused by
 5 an act or omission of an employee of the public entity
 6 within the scope of his employment if the act or omission
 7 would, apart from this section, have given rise to a cause
 of action against that employee or his personal
 representative.

8 *See Cal. Gov. Code, Section 815.2(a).*

9 Given the City's vicarious liability on these claims, the City is also responsible
 10 for the damages resulting from the violation of those rights. Plaintiffs intend to
 11 request that the jury be instructed accordingly. See, CACI 3703. Specifically,
 12 Plaintiffs have included the following instruction to be provided to the jury,
 13 consistent with the model instruction:

14 "In this case, Jose Zavala and Julio Quintanilla were
 15 employees of the City of Los Angeles.

16 If you find Jose Zavala and Julio Quintanilla were acting
 17 within the scope of their employment when the incident
 18 occurred, then the City of Los Angeles is responsible for any
 harm caused by Jose Zavala and Julio Quintanilla's wrongful
 conduct.

19 The parties have stipulated that Jose Zavala and Julio
 20 Quintanilla were acting within the scope of their employment
 21 during this incident."

22 *See CACI 3703 (2023 edition).*

23 Therefore – contrary to Defendants' arguments – any evidence, reference, or
 24 argument that the City would be responsible for the damages on Plaintiffs' state law
 25 claims, in the event the jury delivers a verdict in Plaintiffs' favor on those claims, is
 26 certainly relevant to both liability and damages and is proper. To preclude such
 27 evidence is misleading to the jury, who may otherwise assume that the defendant
 28 officers may be personally responsible for any damages resulting from Plaintiffs'
 state law claims. Fed. R. Evid., 403.

Indeed, in order to fairly compensate Plaintiffs, it is necessary that the jury hear the truth regarding the City's responsibility under state law for the damages on plaintiffs' state law claims, should the jury find that the Defendant Officers violated Plaintiffs' rights under state law. It would be misleading to a jury to believe that such damages will be paid by the officers' respective personal funds when, in fact, they are not. Jurors may be reluctant to impose liability and damages because they may feel sympathy for the defendant officers, individuals with an assumed, modest salaries. Without knowledge that the City is responsible for these damages, consistent with the jury instruction to this effect, jurors might decide not to fully compensate Plaintiffs due to a concern of placing an undue financial burden on the defendant officers, personally. Precluding evidence that would clarify the City's responsibility in this case would permit misleading information to enter the trial and would be unfairly prejudicial to Plaintiffs, under FRE 403.

14 Any instruction, evidence or argument regarding the City's responsibility for the
15 damages on Plaintiffs' state law claims will not prejudice Defendants. It is only an
16 accurate representation of the law.

17 For these reasons, Plaintiffs hereby respectfully request that Defendants' Motion
18 *in Limine* No. 3 be denied.

19

20 || Respectfully submitted,

21

22 | Dated: May 17, 2024

LAW OFFICES OF DALE K. GALIPO
CARRILLO LAW FIRM, LLP

1

1

25

20

21

By: /s/ Shannon J. Leap

Dale K. Galipo

Renee V. Masongsong / Shannon J. Leap

Michael S. Carrillo / J. Miguel Flores

Attorneys for Plaintiffs